

AMENDED IN SENATE MAY 10, 2011

AMENDED IN SENATE APRIL 11, 2011

SENATE BILL

No. 908

Introduced by Senator Runner

February 18, 2011

An act to amend Sections 3102 and 3103 of, and to add Section 3103.7 to, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 908, as amended, Runner. Elections: ballots: submission by electronic mail.

Existing law permits a voter to return a vote by mail ballot either by mail to the elections official from whom it came or by personal delivery to the elections official or to a precinct board member at any polling place within the jurisdiction.

Existing law permits a special absentee voter, as defined, who is temporarily living outside of the territorial limits of the United States or the District of Columbia, or is called to military service, to return his or her vote by mail ballot by facsimile transmission to the elections official. The ballot must be received by the closing of the election day polls and accompanied by an identification envelope and an oath of voter declaration in a prescribed form.

Existing law requires a special absentee voter who returns a ballot by facsimile transmission to agree in an oath of voter declaration under penalty of perjury to waive his or her right to a secret ballot and that he or she has not applied for a vote by mail ballot from any other jurisdiction for the election. The elections official is required to determine the voter's eligibility to vote by comparing the voter's

signature from the materials returned by facsimile transmission to the signature on the voter's affidavit of registration.

This bill would permit ~~a member of the Armed Forces of the United States or any auxiliary branch thereof, or his or her spouse or dependent,~~ *special absentee voter* who is temporarily living outside of the territorial limits of the United States or the District of Columbia, or is called for military services within the United States on or after the final date to make application for a vote by absent voter ballot, to return his or her ballot by electronic mail, as prescribed. The bill would require the ballot to be accompanied by a copy of an identification envelope and an oath of voter declaration in substantially the form described with respect to facsimile transmission of ballots.

This bill would require the elections official to determine the voter's eligibility to vote by comparing the signature on the scanned copy of the identification envelope with the signature on the voter's affidavit of registration.

Because the bill requires elections officials to provide a higher level of service and extends the crime of perjury, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 3102 of the Elections Code is amended
- 2 to read:
- 3 3102. Applications for the ballots of special absentee voters
- 4 shall be received and, except as provided in Sections 3103.5 and
- 5 3103.7, the ballots shall be received and canvassed, at the same
- 6 time and under the same procedure as vote by mail ballots, insofar
- 7 as that procedure is not inconsistent with this chapter.

SEC. 2. Section 3103 of the Elections Code is amended to read:

3103. (a) Any application made pursuant to this chapter that is received by the elections official prior to the 60th day before the election shall be kept and processed on or after the 60th day before the election.

(b) The elections official shall immediately send the voter a ballot in a form prescribed and provided by the Secretary of State. The elections official shall send with the ballot a list of all candidates who have qualified for the ballot by the 60th day before the election and a list of all measures that are to be submitted to the voters and on which the voter is qualified to vote. The voter shall be entitled to write in the name of any specific candidate seeking nomination or election to any office listed on the ballot.

(c) Notwithstanding Section 15341 or any other provision of law, any name written upon a ballot for a particular office pursuant to subdivision (b) shall be counted for the office or nomination, providing the candidate whose name has been written on the ballot has, as of the date of the election, qualified to have his or her name placed on the ballot for the office, or has qualified as a write-in candidate for the office.

(d) Except as provided in Sections 3103.5 and 3103.7, the elections official shall receive and canvass special absentee voter ballots described in this section under the same procedure as vote by mail ballots, insofar as that procedure is not inconsistent with this section.

(e) In the event that a voter executes a special absentee ballot pursuant to this section and an application for a vote by mail ballot pursuant to Section 3101, the elections official shall cancel the voter's permanent vote by mail status, and process the application in accordance with Chapter 1 (commencing with Section 3000).

(f) Notwithstanding any other provision of law, a special absentee voter who qualifies pursuant to this section may, by facsimile transmission, register to vote and apply for a special absentee ballot or a vote by mail ballot. Upon request, the elections official may send to the qualified special absentee voter either by mail, facsimile, or electronic transmission the special absentee ballot or, if available, a vote by mail ballot pursuant to Chapter 1 (commencing with Section 3000).

SEC. 3. Section 3103.7 is added to the Elections Code, to read:

1 3103.7. (a) ~~A person described in paragraph (1) or (4) of~~
2 ~~subdivision (b) of Section 300~~ *special absentee voter* who is
3 temporarily living outside of the territorial limits of the United
4 States or the District of Columbia, or is called for military services
5 within the United States on or after the final date to make
6 application for a vote by mail ballot, may return his or her ballot
7 by electronic mail in the manner prescribed in subdivision (b). To
8 be counted, the ballot returned by electronic mail must be received
9 by the voter's elections official no later than the closing of the
10 polls on election day and must be accompanied by a copy of an
11 identification envelope containing all of the information required
12 by Section 3011 and ~~a~~ *an* oath of voter declaration in substantially
13 the form described in subdivision (a) of Section 3103.5.

14 (b) To submit a ballot by electronic mail, the ballot and
15 accompanying identification envelope and oath of voter declaration
16 must be scanned to create electronic copies of the documents. The
17 electronic copies of the documents shall be included in the
18 electronic mail sent to the elections official as attachments. The
19 Secretary of State shall adopt uniform regulations for the use of
20 electronic mail in returning ballots.

21 (c) Notwithstanding the voter's waiver of the right to a secret
22 ballot, each elections official shall adopt appropriate procedures
23 to protect the secrecy of ballots returned by electronic mail.

24 (d) Upon receipt of a ballot returned by electronic mail, the
25 elections official shall determine the voter's eligibility to vote by
26 comparing the signature on the scanned copy of the identification
27 envelope with the signature on the voter's affidavit of registration.
28 The ballot shall be duplicated and all materials preserved according
29 to procedures set forth in this code.

30 SEC. 4. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution for certain
32 costs that may be incurred by a local agency or school district
33 because, in that regard, this act creates a new crime or infraction,
34 eliminates a crime or infraction, or changes the penalty for a crime
35 or infraction, within the meaning of Section 17556 of the
36 Government Code, or changes the definition of a crime within the
37 meaning of Section 6 of Article XIII B of the California
38 Constitution.

39 However, if the Commission on State Mandates determines that
40 this act contains other costs mandated by the state, reimbursement

1 to local agencies and school districts for those costs shall be made
2 pursuant to Part 7 (commencing with Section 17500) of Division
3 4 of Title 2 of the Government Code.

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